DOCUMENT RESUME

ED 170 764 CS 204 845

AUTHOR White, Frank Wm.
TITLE Cameras in the Courtroom: A U.S. Survey. Journalism Monographs No. 60.
INSTITUTION Association for Education in Journalism.
PUB DATE Apr 79
NOTE 41p.
AVAILABLE FROM Prof. Harold Wilson, AEJ Publications Manager, School of Journalism and Mass Communications, University of Minnesota, Minneapolis, Minnesota 55455 ($2.50)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS Court Doctrine; Court Litigation; *Courts; *Journalism; *Legal Problems; *News Reporting; *Photography; *State Legislation

ABSTRACT

Changes in the prohibition against cameras in state courtrooms are examined in this report. It provides a historical sketch of camera usage in the courtroom since 1935 and reports on the states permitting still, videotape, film cameras, and other electronic equipment in courtrooms since 1978, on the states now experimenting with the matter, and on those currently planning experiments. It notes that the pattern of change has been unusual in that changes have developed from "below" rather than from the federal court system or the American Bar Association and that, in addition, the changes have been without clear leadership. The report points out that because the changes have developed at the level of the individual states without uniform guidance, emerging policies have differed: some states require camera pools, restriction of photographers to designated areas, the consent of all involved, and the restriction to a single camera, while others do not. It concludes that further research is needed regarding the psychological impact of cameras in the courtroom. (DF)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED170784

Journalism Monographs Number Sixty.
April 1979 Bruce Westley, Editor
Association for Education in Journalism

FRANK Wm. WHITE

Cameras in the Courtroom: A U.S. Survey

(Copyright 1979 by the Association for Education in Journalism)

"PERMISSION TO REPRODUCE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

Assn. for Education in Journalism

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

(Prior Publication)

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

FRANK Wm. WHITE is an instructor in the Department of Mass Communications at Middle Tennessee State University, Murfreesboro. He received a B.S. degree in mass communications and political science from Middle Tennessee and an M.A. in journalism from Indiana University. He wishes to thank the Law Division of the Association for Education in Journalism, which commissioned this work for presentation at the AEJ convention in Seattle in August, 1978. It is based on his M.A. thesis. Prior publication of this manuscript was supported by a faculty research grant from Middle Tennessee State University. The author also wishes to thank Deborah van Peski, staff assistant with the American Bar Association's Adjunct Committee on Fair Trial-Free Press for invaluable help and guidance.

CS 204 845

COLORADO officially began to allow cameras in the courtroom in 1956.[1] From 1965 to 1973 it was the only state to do so.[2] Slowly at first, but now with increasing rapidity, other states are joining Colorado in allowing cameras and electronic equipment in their courtrooms. By late 1978, 19 states were doing so under various conditions. Organizations in at least 17 other states were working to change the applicable rules and statutes. In only fourteen states was there no indication of some effort to change the prohibition against courtroom cameras.

The changes have been occurring so rapidly that CBS correspondent Fred Graham has called it a revolution.[3] Washington state conducted a pilot experiment with cameras in the courtroom in 1973 and began to allow cameras in all state trial courts in 1976. Alabama, Georgia and Florida began allowing cameras in 1977. Several other states started programs in 1978.

This report provides an historical sketch of cameras in the courtroom since 1935, reports on the states permitting cameras and electronic equipment in courtrooms to the end of 1978, the states now experimenting with the matter and the states planning experiments.

Information for this report was gathered from state bar associations, state press associations, state administrators, university law and journalism faculty members and other available sources. Letters requesting current information were mailed to AEJ Law Division members and members of the Association of American Law Schools Mass Communications Law Section in 39 states in May, 1978. Letters requesting additional information were mailed to state and regional press associations in June, 1978. Most of the information on individual states was received between May and mid-July, 1978. Since then some information has been taken from published and personal sources.

Additional source material was gathered from the *Guide to Broadcasting from the Courtroom: A Compilation of Legal Materials Regarding Coverage of Judicial Proceedings by the Electronic Media*, material gathered as a joint project of the Reporters Committee for Freedom of the Press and the Radio Television News Directors Association. The collection contains a copy of the statutes, rules and codes covering the use of cameras in the courtrooms for almost every state, petitions presented to several state supreme courts, and additional primary resource material. The report was compiled in February and updated in mid-June. New material in the updated version largely duplicates material in this report.

A Brief History

There are indications that members of the American Bar Association were concerned about the effects of cameras in the courtroom at least as early as 1932,[4] but the ABA did not study the problem until after the trial of Bruno Richard Hauptmann in 1935. Hauptmann was on trial for the kidnapping and murder of the baby of Charles and Anne Morrow Lindbergh. The kidnapping on March 1, 1932, was a sensational news story from then until Hauptmann's execution in 1936.

An estimated 700 news persons, including 129 photographers, were in Flemington, New Jersey, to cover the trial.[5] The court, unable to control the press corps, which moved freely in and out of the courtroom, ordered that no pictures be taken during court sessions. The order was ignored,[6] in what one observer called "perhaps the most spectacular and depressing example of improper publicity and professional misconduct ever presented to the people of the United States in a criminal trial."[7]

A committee of the ABA appointed in 1936 to study the trial made 16 recommendations, including a proposal to ban photography and broadcasting from courtrooms entirely.[8] A joint committee of the bar, newspaper editors and publishers and radio representatives was appointed to study the proposed guidelines, and in 1937 recommended to the ABA that cameras be allowed with the approval of the trial judge. These recommendations were adopted as a resolution at the ABA convention of 1937,[9] but, three days

later, the convention adopted thirteen amendments to its Canons of Professional and Judicial Ethics, including Canon 35:

> Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom during sessions, and the broadcasting of court proceedings are calculated to detract from the essential dignity of the proceedings, degrade the court and create misconceptions with respect thereto in the mind of the public and should not be permitted.[10]

Canon 35 was amended in 1952 to include television. The wording was revised in 1963, but the revision did not alter the impact of the canon, which was adopted by most states and followed in practice by most of the rest.

By the early 1950s there was a strong push from newspaper, broadcast and photography groups for a relaxation of Canon 35. Television cameras were allowed to cover a murder trial—perhaps for the first time—in Waco, Texas, on December 6, 1955.[11] Texas had not adopted Canon 35 and the trial judge, D.W. Bartlett, had previously allowed photographers in the courtroom if flashbulbs were not used and the photographers did not disturb the court. Bill Stinson, news editor of KWTX-TV, obtained the judge's consent to bring his television camera in the courtroom under the same restrictions as still cameras.[12] One television camera mounted on a balcony was used to provide live telecasts of the entire trial.

Individual judges allowed still cameras or television cameras in their courtrooms during the mid-fifties in Kansas,[13] Oklahoma[14] and Idaho.[15]

One of the most noted early cases is the 1956 Colorado murder trial that produced Colorado Rule 35 to replace Canon 35 in that state. Rule 35 allows photography in and television and radio broadcasting from the courtroom with the permission of the judge. The case involved a murder charge against Gilbert Graham, who admitted placing a bomb on an airplane to collect $35,000 in life insurance on his mother. Forty-four persons wre killed in the resulting midair explosion.[16]

The supervisor of the Colorado district courts had previously ordered a relaxation of the ban on courtroom photography, but the ban was reinstated the day before Graham was to appear in court, presumably because of publicity. When media representatives protested, the trial was postponed and a hearing was scheduled to review the ban, including courtroom demonstrations of cameras

and electronic equipment. Justice Otto Moore recommended to the state supreme court that the prohibition be abandoned, and the court agreed.

The ABA established a special committee in 1954 to study Canon 35. In 1957 the committee recommended that the restriction remain.[17] In 1958 the ABA again established a committee to study the matter and in 1962 it, too, recommended retention of the Canon.[18]

By 1959, at least three states, Colorado, Oklahoma and Texas, allowed electronic equipment and cameras in their courtrooms and individual judges in at least a dozen others ignored the canon and were not reprimanded for doing so. Either isolated instances or common practice allowed cameras in the courtrooms of Washington, Arizona, South Dakota, Mississippi, Connecticut, North Carolina, Michigan, Tennessee,[19] Pennsylvania,[20] Iowa,[21] Georgia[22] and Nebraska.[23]

In 1965, the U.S. Supreme Court reviewed the case of Billie Sol Estes,[24] who had been tried in Texas in 1962 on a swindling charge. Inasmuch as Texas had not adopted Canon 35, there were six television cameras (two inside the courtroom), nine photographers and one microphone for live broadcasts at the pretrial hearing and, in a second pretrial hearing, a microphone was placed inside the jury box and three on the bench.[25] After noting the excess of equipment in the courtroom, the judge ordered that a single television pool camera be operated from a booth in the rear of the courtroom.

Even though the problem had been controlled by the time the trial began, the U.S. Supreme Court expressed concern over the excess of equipment in the courtroom during the pretrial period.[26] Justice Tom Clark also expressed the court's opinion that trial participants would be affected by the presence of the cameras whether they could see them or not.[27] Justice Harlan, in a concurring opinion, said that the day may come when television will be so commonplace "as to dissipate all reasonable likelihood that its use in courtrooms may disparage the judicial process,"[28] but the Court said the case must be reviewed on the basis of evidence presented and not on the possibility of future technological advances.[29] The decision, in effect, closed state courtrooms to cameras by saying that to allow them would be a violation of the defendant's

Fourteenth Amendment right to due process. Only Colorado continued to allow cameras in the courtroom after the Estes decision.

Canon 35 remained unchanged until the canons were replaced in 1972 by the Code of Judicial Conduct. Canon 35 became 3A(7) of the new rules. It acknowledges the advantages of modern technology for presenting evidence, making a record, and other purposes of judicial administration but not for news coverage. It states:

> A judge should prohibit broadcasting, telecasting, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that the judge may authorize:
>
> (a) the use of electronic and photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;
>
> (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;
>
> (c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:
>
> (i) the means of recording will not distract participants or impair the dignity of the proceedings;
>
> (ii) the parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproduction;
>
> (iii) the production will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and
>
> (iv) the reproduction will be exhibited only for instructional purposes in educational institutions.

A revision of the 1966 ABA *Standards Relating to a Fair Trial and Free Press* (commonly called the Reardon Report) was presented to the ABA convention in August, 1978.[30] The proposed revision included a statement that television, radio and photographic coverage of judicial proceedings is not *per se* inconsistent with the right to a fair trial,[31] a point the report was silent on. The ABA House of Delegates adopted the revision but deleted the section dealing with television, radio and photographic coverage. Thus, the *Standards Relating to a Fair Trial and Free Press* remained silent on that controversial issue, and the House of Delegates overwhelmingly rejected any change in the canon at its meeting in February, 1979.

Acceptance of the revision with the camera clause intact would have required a change in the wording of Canon 3A(7).[32] However,

the action of the House of Delegates indicates that the ABA is still adamant on that issue. If there is a change, it will probably reflect what is happening in state courtrooms.

For the purposes of this study, the states have been divided into three broad categories: those that allow cameras in the courtroom in some form, those taking action and those taking no action to allow them. Included among states that allow cameras are those that were allowing them in the courtroom at the time this study was completed, among them those with all courtrooms open to cameras and those that allow cameras in only a limited number of courtrooms. States experimenting with cameras in the courtroom are also included in this category. "With Action" included both states where a petition is being considered by the state supreme court and states where individuals or organizations are mounting efforts to get cameras into the courtroom. The third category includes states where there is no indication that any such effort exists.

States Allowing Cameras in the Courtroom

States that were allowing cameras in the courtroom as of the end of 1978 are Colorado, New York, Washington, Alabama, Georgia, Nevada, New Hampshire, Minnesota, Louisiana, Montana, Wisconsin, Tennessee, Texas, New Mexico, Alaska, New Jersey, West Virginia, Idaho, North Dakota and Oklahoma. (They are listed as closely as possible in the order in which permission was granted.) However, inclusion in this list means only that court rulings and canons allow cameras, or appear to, not that the matter has ever been put to the test or that cameras have ever actually recorded or reported a trial. For example, New York is listed here because there appears to be a loophole in that state's order which neither the press nor the bar appears to be aware of. And this list includes states which permit cameras in some courts even though they prohibit them in trial courts.

Colorado

Colorado has allowed photography and broadcasting in the courtroom since February 27, 1956, when the state Supreme Court adopted and approved the report of Justice O. Otto Moore, who had served as referee in state hearings on the ABA's Canon 35.[3]

When other state courts abandoned courtroom photography following the U.S. Supreme Court decision in *Estes v. Texas*, Colorado continued to follow its Rule 35 allowing courtroom photography and broadcasting at the discretion of the trial judge.

Courtroom photography and broadcasting are currently dealt with in Canon 3A(7)-3A(10) of the Colorado Code of Judicial Conduct, which stipulates that there shall be no photographing or broadcasting of court proceedings unless permitted by order of the trial judge and only under the conditions prescribed by the trial judge.[34] The court is given such discretion where in its judgment they would detract from the dignity of the court proceedings, distract witnesses, degrade the court or otherwise materially interfere with the achievement of a fair trial.[35]

The Colorado rule additionally requires the consent of the accused, of witnesses under subpoena and of jurors. However, if individual witnesses or jurors object, cameras or microphones are prohibited only during those portions of the trial where those complaining would be photographed or broadcast.[36] The accused may prohibit photography or broadcasting from portions of the trial or all of it.[37] In the first trial broadcast in Colorado following the adoption of Rule 35, the Gilbert Graham murder trial, Graham asked that he not be photographed when he took the witness stand in his own behalf. If more than one individual is on trial, consent must be gained from all the accused.

The current chief justice of the Colorado Supreme Court, Edward E. Pringle, was a trial judge at the time of the Moore hearing in 1956 that led to the adoption of Rule 35. Within a year after the provision was adopted Pringle tried a case that was extensively televised. He recently reported that he thought it was handled with dignity and with no loss of decorum in the courtroom.[38] "I felt then as I do now – that I would rather the public saw what was going on in its courtrooms as it happened and not as it was depicted in various entertainment programs not specially designed to be a truthful representation of the courtroom proceeding." He added that "not much" photography or broadcasting takes place in the Colorado courts today, that media do not cover very many trials because it is expensive and the ordinary trial is dull. Cameras are permitted in the state supreme court and cases of major importance

are often photographed and broadcast, producing no bad reactions.

Chief Justice Pringle believes courtroom photography is preferable to courtroom sketching because sketches tend to distort the people involved.[39]

The Colorado Broadcasters Association has developed a code for court coverage that governs conduct of radio and television personnel when the judge asks the broadcasters to pool their coverage. Camera pools are not required by the Colorado Code of Judicial Conduct but their use was strongly recommended by Justice Moore.[40]

The guidelines require the pool coordinator to discuss plans for coverage before trial. Final plans must have the approval of the judge. The code directs radio and television personnel to observe the customs of the court, to conduct themselves with dignity and to do everything possible to preserve the decorum of the courtroom "regardless of how others may act."[41]

New York

The New York statute contains a modified version of Canon 3A(7) that prohibits the use of cameras in trial courtrooms ". . . unless (given) permission of the chief judge of the Court of Appeals or the presiding justice of the Appellate Division. . . ."[42] The New York Press Association appears to be unaware of this provision.[43] Alan Petrillo of the New York State Bar knows of no "authorized exceptions to the prohibition on photographic coverage in New York courtrooms."[44] Although the statute allowing exceptions has been a part of the New York code since January 21, 1974, it seems that, in practice, cameras are not allowed in New York courtrooms.

Washington

Washington was the first state after Colorado to adopt rules allowing cameras to cover trials. In 1973 the Washington Supreme Court authorized a test that was conducted in December, 1974. However, the amendment to Canon 3A(7) of the Washington Code of Judicial Conduct was not approved by the state supreme court until July 23, 1976.[45]

The Washington revision of Canon 3A(7) provides that a judge may grant permission and prescribe conditions for broadcasting, televising, recording and taking photographs in the courtroom during sessions of the court. Media personnel must not distract participants in the trial or impair the dignity of the proceedings. Witnesses, jurors or others who express prior objection to the judge shall not be photographed and their testimony shall not be broadcast or telecast.[46]

To initiate the change in Washington's Canon 3A(7), the Bench-Bar-Press Committee of Washington voted on November 10, 1973, to ask the state supreme court to authorize a temporary exception to the rule against the use of cameras in the courtroom to allow the experiment. The state supreme court granted the request on November 28, 1973, and Washington Chief Justice Frank Hale, who was also chairman of the Bench-Bar-Press Committee, asked Judge Stanley C. Soderland of the King County Superior Court to select a criminal trial suitable for such a test.[47]

A suitable trial was not found until November, 1974. Judge Soderland spent the year searching for a trial that wold have an appropriate level of public interest and a trial in which the parties and counsel were willing to waive assignment of error which might be based upon the conduct of the test. The case involved a charge of negligent homicide. Thomas Dean Fetter had been the driver of a car which struck a car on a rural highway in King County. The driver of the second car was killed and a passenger in the second car was injured.

Both still and television cameras were present during the four-day trial. The television cameras did not operate continuously during the trial but recorded only the portions deemed important by a television news reporter.[48] Different types of cameras were used by different television stations and newspapers on each day of the trial to provide a wide range of experience. Ten of the fourteen witnesses called were interviewed outside the courtroom by members of the Bench-Bar-Press Committee and by Judge Soderland. Eleven of the twelve jurors were also interviewed following the trial and "uniformly responded that they were not distracted by the presence of the cameras, and that they saw no evidence that other trial participants were affected in any way by the cameras."[49]

Observers at the trial were unanimously favorable to the experiment, although media representatives tended to judge the media performance more harshly than did members of the bar and bench. Some said the television cameras were silent while others heard only a slight hum in some areas of the courtroom. Several thought that still cameras created more noise than television cameras.[50]

Paul Conrad, chairman of the test subcommittee and executive director of the Allied Daily Newspapers, said the test established that videotape cameras are virtually silent, while film cameras made an audible but not intrusive hum. "The single lens reflex cameras (35mm still cameras) used by the press photographers are surprisingly noisy, but not to the point of (being) distracting," Conrad said.[51]

Judge Soderland, presiding judge for the test trial, was favorably impressed. He said that even though he was paying particular attention to the news personnel and cameras in order to make an evaluation, in time he had completely forgotten their presence.[52]

With the adoption of the amendments to Canon 3A(7) of the Washington Code of Judicial Conduct, the state supreme court published Illustrative Broadcast Guidelines and Illustrative Print Media Guidelines, which it emphasized were illustrative ony and had not been adopted by the court[53] The guidelines for broadcast media stipulate that the judge has the authority to determine whether equipment may be taken into the courtroom and to require that a broadcast news representative should advise the bailiff before the start of a court session that the media desire to broadcast live or record from within the courtroom. The bailiff may have prior instructions from the judge for the positioning of the camera and the broadcast reporter. Otherwise, the equipment should be behind the front row of spectator seats by the least used aisle.[54]

The guidelines recommend that only one television camera be in the courtroom at any one time and that television microphones also should serve radio. Agreements for arrangements should be made outside the courtroom without imposing on the judge or court personnel.

Although the one-camera guideline is only a recommendation, it is strictly adhered to by the Washington media.[55]

The guidelines for print media also give the judge the authority

to allow access and require the still photographer, too, to stay behind the front row of spectator seats. They permit only o e still photographer in the courtroom at a time. Instead of pooling, press photographers take turns in the courtroom.

A survey by Allied Daily newspapers in July, 1978, found that of 90 superior court judges responding, 29 had had cameras in their courtrooms since cameras were authorized, many of them several times, in civil as well as criminal actions. On at least three occasions cameras covered the state supreme court, but as yet none the appeals court.[56]

Alabama

Alabama adopted a Code of Judicial Ethics for the first time in December, 1975. An advisory committee established to develop the canons recommended a canon resembling 3A(7) with an additional restriction on cameras in the areas adjacent to the courtroom.[57] Media groups participated.

When the Alabama Canons were adopted on December 15, 1975, Canon 3A(7) followed the wording of the ABA canon but included clauses (7A) and (7B) that approve courtroom photography in trial and appellate courts with consent of all parties and following a plan approved by the state supreme court.[58] Canons 3A(7A) and 3A(7B) allow the judge to use discretion in authorizing broadcasting, televising, recording or taking of photographs in the courtroom. In a criminal trial, all accused persons and the chief prosecuting attorney must give prior written consent. In a civil proceeding, all litigants involved and their chief attorneys must give written consent.[59]

The state supreme court approved a plan from the Fifteenth Judicial Circuit for electronic and photographic coverage on April 12, 1977, and that plan has become a model for other circuit courts.[60] The plan requires that media desiring coverage be responsible for obtaining consent from the parties on standard consent forms provided by the circuit court clerk. Once consent is obtained by one media outlet, others do not need additional consent. However, the consent cannot be granted to one medium or one media outlet while refused to another medium or another media outlet.

The plan does not require a pool, as does the Washington

guideline, but stipulates that the judge may require a pool or divided time so that all will be allowed coverage of the trial without disruption of the courtroom. Although the canons do not require consent of witnesses, the model plan provides that the judge should suspend photography or broadcasting if a witness or a juror objects.

A plan adopted October 14, 1976, for coverage of the state supreme court provides that no more than four still camera photographers and two television cameras be permitted in the courtroom at any time while the court is in session.[61]

The Washington guidelines state that television cameras must be ready for operation at least fifteen minutes prior to the opening of court and may not be moved during the session. Under the model Alabama plan, the television cameras may be moved into the courtroom or change positions in the courtroom during the session provided that the movement does not disturb the court or the participants in the trial.[62] Still photographers are required either to sit in the front row of observer benches or stand in the rear or at the sides of the courtroom; they are not allowed to stand in front of observer benches or inside the bar.[63]

Alabama media are using electronic and photographic equipment in courtrooms with "some regularity" but there are no data on how frequently. Cameras have been used in many Alabama courtrooms in the past at the discretion of the presiding judge without specific guidelines from the state supreme court or a set of canons.[64]

Even though the model plan requires the media to gain the consent from the trial participants, most judges assist in gaining permission or consent. There is no record of a case where coverage was requested and consent was not granted.[65]

Judge Robert Hadnette of a Mobile circuit court, who was one of the first judges to allow cameras in the courtroom under the new plan, said he feels that the use of telecasting equipment does more, if handled responsibly, to inform the public about the system of justice than anything else available. In his experience, both full and edited coverage is successful in alerting the public to the use of the courts and the process involved.[66]

Georgia

The Georgia Supreme Court amended Canon 3A on May 12,

1977, to include a new subparagraph (8) rather than to reword subparagraph (7). Canon 3A(8) states that the supreme court may authorize the broadcasting, televising, recording, filming and taking of photographs in the courtrooms of the state, including the supreme court.[67] Georgia follows the Alabama system of judges providing a plan for approval by the supreme court in advance of any use of cameras in the courtroom.

The state supreme court approved a plan for coverage of the supreme court sessions in the Judicial Building in Atlanta in September, 1977,[68] and in October, 1977, the court approved plans for judicial circuits in Albany and Columbus.[69] The court has approved plans for at least four other circuits. Because circuit courts are allowed to develop their own plans in cooperation with area media, the plans accepted are not uniform. All require prior consent from the trial participants but camera pools are in no case required.

The plan for the supreme court provides for no more than four still cameras and three television cameras at any one time. All photographers and television stations wishing to participate are accommodated either by a pool or by dividing the time among those requesting access. Cameras must be set up and removed while the court is not in session. Still photographers may sit anywhere in the spectator area but must sit in the back row if they wish to stand to take pictures.

The plan approved for the Dougherty Circuit Court in Albany provides that the judge may call for pool coverage in the event of an unusual number of photographers, broadcasters and reporters. The plan of the Chattahoochee Circuit Court in Columbus as submitted for approval states that the judge would allow television coverage with a camera pool only. However, the state supreme court changed this to say that the judge shall have discretion to require a television camera pool. The Chattahoochee plan does not limit the number of still camera photographers but does require the still camera photographers to sit in the area designated by the court.

Both the Dougherty and Chattahoochee plans state that once consent is given by trial participants it cannot be withdrawn except by the trial judge. The Dougherty plan requires that consent be gained from the presiding judge, all attorneys representing the defendant, all prosecuting attorneys, the defendant, the plaintiff

and the attorneys for the plaintiff. Consent of all the parties is required. If witnesses or jurors do not consent, cameras may still be allowed in the courtroom but may not photograph or film those who refuse consent.

Both the plan for the state supreme court and the Chattahoochee circuit court prohibit the use of additional lighting. However, the Dougherty plan includes a request for approval of an addition of 5,000 watts to be centered on the witness stand.[70]

The first trial to be televised in Georgia under an approved plan was a murder trial in Columbus in November, 1977, in which William Anthony Brooks was charged with the abduction and murder of a young girl. Judge John Land, who had drafted the Chattahoochee plan, suggested televising the trial, saying he hoped televising the trial would have a deterrent effect.

Even though plans for camera coverage have been approved for six Georgia circuit courts, only three trials had been televised by mid-1978, including that of *Hustler* magazine owner Larry Flynt in the Gwinnett Circuit Court, a trial that was halted when Flynt was shot during a recess.[71]

Nevada

Nevada presents a confused situation involving court rules, statutes and canons, but nevertheless apparently allows camera coverage of court trials.

Rule 240 of the Nevada Supreme Court Rules states that "(t)he taking of still photographs in the courtroom, during sessions of the court or recess between sessions, should be regulated by local rule or practice."[72] However, Section 1.220 of the Nevada Code of Law says that a court "shall prohibit by minute order any person, firm, association or corporation from broadcasting, televising, or taking motion pictures, or arranging for the broadcasting, televising, or taking of motion pictures of such proceedings (any proceedings of the court)."[73]

Canon 3A(7) of the Nevada Canons of Judicial Ethics states that cameras shall be prohibited on motion of the court, on motion of an attorney representing an interested party or at the request of a witness testifying under subpoena. The canon follows the supreme court rule in saying that cameras in the courtroom should be regulated by local rule or practice.[74]

In June, 1976, KLAS-TV of Las Vegas received permission from the state supreme court to tape a murder trial and subsequent appeals for a documentary news series. The station videotaped 60 hours of the trial court session and broadcast five hours of the edited tape in a three-evening documentary series.[75]

Nevada Canon 3A(7) giving judges discretion to allow or exclude cameras was adopted in October, 1965, but the KLAS-TV documetary appears to be an isolated case. Because the decision is left to local rule, some judicial districts will not even allow photographers to carry cameras into the courthouse.[76]

New Hampshire

New Hampshire permitted BBC-TV to videotape part of a criminal trial in 1976 as part of a documentary about the United States Bicentennial. That exception was granted on a one-time-only basis by the chief justice of the state supreme court. However, the court made rule changes effective January 1, 1978, to allow photographic and electronic coverage of trial court proceedings[77] and state supreme court proceedings.[78]

Canon 3A(7) of the New Hampshire Supreme Court Rule 25 now says "except as provided in the rules of the supreme court and of the superior court or trial court, a judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent. . . "[79] The rule change gives the trial judge the discretion to allow or prohibit cameras in the courtroom. No guidelines were provided by the supreme court concerning the use of cameras in the courtroom.

News photoraphers from the Concord *Monitor* photographed an appeal before the state supreme court for the first time on January 3, two days after the rule became effective.[80]

Minnesota

The Minnesota Supreme Court has waived Canon 3A(7) of the Minnesota Code of Judicial Conduct in order to facilitate experimental use of cameras in the courtroom of the state supreme court.[81] The court signed an order January 27, 1978, allowing the experiment in proceedings at the discretion of the supreme court. The court will allow one film camera and two still cameras in the

courtroom at any one time. Motor driven still cameras are prohibited.[82] The order gives the court the right to determine positioning of cameras and photographers and does not allow additional lighting.

At least one proceeding before the state supreme court has been filmed and photographed under this experiment. The supreme court granted consent for cameras to be present in the case of *Reserve Mining Company, et al. v. Minnesota Pollution Control and Save Lake Superior Association* on February 7, 1978.[83] Additional rules provided by the court on January 27, 1978, direct that requests to film or photograph must be submitted 48 hours before the scheduled hearing and names of the camera operator and photographer must be submitted to the court administrator 24 hours before the scheduled hearing. The television camera operator and the photographers must remain seated in the front row of the public area of the courtroom during the trial. The film camera must be mounted no higher than eye level.[84]

Louisiana

The Louisiana Supreme Court has authorized a pilot project on camera and electronic coverage of court proceedings in a single district court in Rapides Parish. The guidelines were approved February 23, 1978, but as of June 30, 1978, no trials had been photographed or filmed because permission had not been given by all parties of a trial.[85] The guidelines impose a limit of two television cameras and two still camera photographers with no more than two cameras each. The camera equipment must be set up before the trial begins and all photographers, still and film, are restrained from moving about the courtroom during the trial.

Written permission for courtroom coverage is required from the parties and their counsel. In a criminal case, permission must also be gained from the victim and the district attorney. There is no mention in the guidelines of a requirement for permission from jurors or witnesses.[86] The test was to be conducted for one year and was to have been evaluated by the state supreme court when it was to end in February, 1979.

Portions of one trial have been filmed and photographed in the pilot experiment, that of a sheriff accused of theft of public funds. Permission was granted to allow cameras to accompany the court

on a field trip to inspect property involved in the case. Permission was also granted for cameras to record the reading of the verdict.[87]

Montana

Following the recommendation of a study committee, the Montana Supreme Court suspended Canon 35 of the Montana Canons of Judicial Ethics and provided a new canon for a two-year experimental period beginning April 1, 1978. The test canon, developed by the study committee and adopted by the state supreme court, states that "the presiding judge in any court proceeding open to the public shall permit the recording and broadcasting by radio and television and the taking of photographs in the courtroom unless he is convinced from the particular circumstances of the individual case that such recording, broadcasting, or photography would substantially and materially interfere with the primary function of the court. . . "[88]

The Montana canon does not require consent from parties to the litigation but does require the judge to state his reasons in the record of the case if he chooses to prohibit cameras.

The court provided guidelines for both broadcast and print media which allow the judge to decide if pooling is necessary and recommend that the judge designate camera positions. Broadcasters and photographers are required to advise the judge prior to the start of a court session that they intend to record the session, but written consent is not required. The state supreme court will reconvene the study committee at or before the end of the two-year experimental period to evaluate the program.

Sam Gilluly, secretary-manager of the Montana Press Association, reports that Montana is "doing well, so far, in implementing the change."[89] However, there is no indication of how frequently trials are covered by photographers and broadcasters in Montana, or whether any have been photographed or broadcast.

Wisconsin

The Wisconsin Supreme Court accepted a petition from the Milwaukee chapter of the Society of Professional Journalists, Sigma Delta Chi, and ordered a suspension of Rule 14 of the state Code of Judicial Ethics for a one-year period beginning April 1, 1978[90] Rule

14 states that a judge "shall not, when it will interfere with the judicial process or fair trial, permit any radio or television reproductions or taking of pictures in the courtroom . . . at any time during the proceedings."[91]

In place of Rule 14 the court installed standards of conduct governing the use of audio or visual equipment in the courtroom for the experimental period.[92] The guidelines require that the media covering each administrative district of the court designate a coordinator to work with the chief judge of the district and the presiding judge to provide for the use of cameras in the courtroom.

The Wisconsin guidelines limit the media to one film camera and two still camera photographers using not more than two cameras each. Two additional television cameras may be authorized for a maximum of three. An additional television camera may be authorized for a news organization using a different type of film or tape than that used by the first camera and an additional camera may be used for live telecasts or to tape entire proceedings. Camera operators and the photographers are required to remain in the area designated by the trial judge. Film, tape or lenses may not be changed during the court proceedings.

The judge may prohibit the photographing of a participant in the trial by his own motion or at the request of a participant. Only persons representing "organizations which are part of the news media" may use cameras in Wisconsin courtrooms.

The experiment was in a state of confusion in late 1978, according to Larry Tobin, legislative coordinator and assistant manager of the Wisconsin Newspaper Association. A substantial number of judges "don't even know what the ruling says or that it even exists," he says. Tobin also reports a problem with the media coordinator system; competition among the media has caused difficulty in appointing coordinators.[93]

A letter from the chief justice of the state supreme court to all subordinate judges dated April 21, 1978, indicated that there had been a problem with judges ignoring the experimental provision. The chief justice's letter indicated that if the judges allow the public to attend the trial they should also permit the use of cameras. He also admonished the judges that "cause," as used in the provision allowing participants in the trial to request that coverage be prohibited, must be more than a desire not to be photographed.

A report by a LaCrosse radio station news director indicates that the experiment in western Wisconsin may be going more smoothly than that in the east.[95] Doug Breisch of WIZM AM-FM, reports that he has covered several trials for his stations, including a hearing three days before the experiment officially began, and that judges have been willing to bend the guidelines to allow film and tape changes during sessions and to allow movement in and out of the courtroom.

Tennessee

The Tennessee Supreme Court is allowing an exception to Canon 3A(7) of the Tennessee Code of Judicial Conduct on a trial basis for photographic and broadcast coverage of the supreme court proceedings only, and, on a pool basis, allows one television camera and one still camera to cover sessions of the court in each of its three courtrooms across the state.

The media must select a liasion person to meet with the court to establish guidelines and to determine what alterations must be made to the courtrooms to facilitate the use of cameras. Any changes made are at the expense of the media. The experiment will continue for an unspecified period.

Attorneys may object to the presence of cameras on an individual basis but the court will determine if permission to photograph or broadcast will be granted.

The first use of cameras in a Tennessee courtroom occurred on April 4, 1978, in Jackson.[96] On December 9, 1978, the chief justice of the state supreme court announced that he will initiate a plan for guidelines to apply to the state's trial courts.

Texas

Texas adopted Canon 3A(7) of the Texas Code of Judicial Conduct in 1974 and the canon still prohibits the use of cameras in trial courts. However, in November, 1976, the supreme court amended the state Code of Judicial Conduct. Subparagraph 3A(7) (d) permits recording by electronic means of oral arguments by the parties in appellate courts where consent has been obtained from the presiding judge.[97] However, in May, 1977, the state Committee on Judicial Ethics advised trial judges that they may not grant permis-

sion for cameras to be used in the courtroom because Canon 3A(7) says the trial judge shall prohibit all broadcasting except upon the occasions specified in the canon.[98]

New Mexico

The New Mexico Code of Judicial Ethics Canon 3A(7) follows the wording of the ABA Canon. However, the rules governing trial and magistrate courts state that cameras should not be permitted in the courtroom except upon express approval of the state supreme court.[99] The chief justice of the state supreme court and District Court Judge Phillip D. Baiamonte have agreed to allow an experiment with still and television cameras in Baiamonte's Albuquerque courtroom.[100] Information provided by Mary Lee Quinalty of the New Mexico Press Association indicates that as of July 6, 1978, the media representatives were still working on guidelines and trying to find a trial where consent could be obtained from all participants.[101]

Alaska

The Alaska state Supreme Court approved an experimental plan for allowing cameras and broadcast equipment in Supreme, Superior and District courts in Anchorage in September, 1978. The program was to be evaluated after one year. The court established guidelines for lighting, location of equipment and types of equipment allowed.[102]

Before making this decision, the court had received a recommendation from the Law and Justice Administration to allow filming of state court sessions. Under the Law and Justice Administration plan, the administration would do the filming and sell edited, packaged versions of the film to television stations. The recommendation made no provision for news photos.[103]

New Jersey

A report from a subcommittee on relations with the media was forwarded to the state supreme court March 15, 1978. The subcommittee recommended an experimental program of television, radio and still camera coverage of a single criminal trial. Consent of the parties, attorneys, witnesses or jurors would not be required for the

experiment if the court accepts the recommendation.[104] The guidelines were adopted in December, 1978.

West Virginia

Bill Seymour, professor at the West Virginia University School of Journalism, demonstrated camera equipment to two circuit court judges in Morgantown in early 1978. The judges were receptive to Seymour's presentation but said the state supreme court would have to authorize admission of cameras to courtrooms before they could consider it.

In November, 1978, the West Virginia Supreme Court accepted a plan presented by Seymour to allow a camera experiment in the Monongalia County (Morgantown) Circuit Court of Appeals. The coverage was to begin with the January court term, but no ending date was established for the experiment.[105]

Idaho

The Idaho state Supreme Court initiated a plan to allow camera coverage of its proceedings on December 4, 1978. The experiment will be evaluated after June 30, 1979.[106] Idaho thus joins Minnesota and Tennessee as the only states allowing cameras to record supreme court sessions while not allowing cameras in lower courts.

According to information from Bert Cross, University of Idaho School of Communications, and Paul Conrad, Washington Allied Daily Newspapers, Idaho is not considering an experiment or a change in court rules for trial or appeals courts.[107]

North Dakota

Early in 1978 several television station managements retained Jack McDonald of Bismarck as counsel to prepare a brief requesting a new North Dakota rule to allow television cameras and still photography in the state's courtrooms. Until then, North Dakota had followed Canon 3A(7). In March, 1979, McDonald reported that the petition had been accepted by the North Dakota Supreme Court and that the court was then conducting an experimental test.[108]

Oklahoma

Although Oklahoma was one of the early states to embrace cameras in the courtroom, the state's bar adopted Canon 35 in 1958 and replaced it with the Code of Judicial Conduct in January, 1975.[109] In 1977 the state supreme court appointed a committee to study the matter,[110] with the result that it received a petition asking that cameras be allowed on an experimental basis. Despite opposition from the bar, the court accepted the petition, and Oklahoma was in early 1979 conducting a one-year experiment.

States with Action to Allow Cameras in the Courtroom

Listed alphabetically, the states in which some action has been taken to permit cameras in some courtrooms are California, Florida, Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Nebraska, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Utah and Virginia.

California

Rule 980 of the California Rules of Court contains a prohibition against the use of electronic recording devices in courtrooms. The rule was adopted by a Judicial Council made up of judges, lawyers and legislators in November, 1965. The majority are judges appointed by the chief justice of the state supreme court.

Efforts to change that rule have been initiated. A subcommittee of the California Bench-Bar-Media Committee presented a recommendation to the parent group April 21, 1977, advocating a change in Rule 980 and proposing guidelines for the use of cameras in California courtrooms,[111] but the Bench-Bar-Media Committee had not acted on that recommendation by late 1978.

A bill passed by the state senate would allow "television and other broadcast media" to use their equipment in the courtroom,[112] but the California Newspaper Publishers Association, Inc., plans to oppose the bill unless the sponsor, state Senator George Deukmejian, will accept an amendment to include newspaper photographers in the bill. The Judicial Council opposed the bill on the grounds that judges should decide whether the courts should be opened.[113]

The California Supreme Court has a new chief justice, Rose Bird, who may be expected to replace the majority of the Judicial Council's current judge members with her own nominees.[114] When that happens, it is expected that the climate will be more favorable toward experimenting with cameras in the courtrooms of California.

Florida

Florida has been a leader in experimenting with cameras in the courtroom and recently completed a one-year experiment. While the courts are evaluating the experiment the state must be listed as considering cameras in the courtroom.

The Supreme Court of Florida was first petitioned by the Post-Newsweek Stations, Florida, Inc., on May 21, 1975, to modify Canon 3A(7) of the Florida Code of Judicial Conduct.[115] The court agreed to re-examine Canon 3A(7) but declined to accept immediately a substitute canon presented with the petition. After studying the issue, the court provided an exception for one criminal trial and one civil trial.[116] The two trials were to be chosen under the following guidelines:

> The parties to the litigation, jurors and witnesses must consent to the televising of their participation in the trial. The television equipment in the criminal case should be fully screened from view but in the civil case, with the consent of the parties, may be in the open. The trial judge shall have full authority to terminate the televising of all or any part of the proceedings which he deems would be an effective interference in the administration of justice. At the conclusion of each trial, the television film or tape shall be delivered to the trial judge for transmittal by him to the state supreme court for filing as an exhibit. The film should not be used in a public newscast without permission of the state supreme court. The state supreme court would observe the proceedings and interview participants following the trial to determine the total effect of television coverage on the trial.[117]

On April 12, 1976, the state supreme court accepted a petition from the Society of Professional Journalists, Sigma Delta Chi that would allow one news photographer with a still camera to photograph the experiment trials. The court had not included still cameras in the first petition of the Post-Newsweek stations.[118]

Over a period of nearly seven months, the supreme court asked judges to find trials that could be used for the experiment. The effort proved unsuccessful because of the consent requirements.[119] The state supreme court abandoned the two-trial attempted ex-

periment on April 7, 1977,[120] and developed the pilot program that later produced the television coverage of the widely-publicized Ronny Zamora murder trial, for which the supreme court allowed an exception to Canon 3A(7) for a period of one year beginning July 1, 1977.

Under the guidelines, only one television camera operated by one person would be allowed in any trial court proceeding. Two television cameras would be allowed in appellate court proceedings. Only one still photographer with no more than two cameras would be permitted in either case.

Audio for both radio and television had to use the existing audio systems in the courtroom. If none existed, microphones and wiring were to be placed in locations designated in advance by the chief judge of the judicial circuit or district. Television and still photographers were required to take their places before the start of the trial and were not allowed to move about during the trial. Modifications and additions to the light sources were provided with the concurrence of the chief judge.

Several courtroom proceedings were broadcast and photographed during the one-year Florida experiment (one source reports an average of three a week),[121] but the most noted case was that of 15-year-old Ronny Zamora, who was on trial for the murder of an elderly woman in his Miami Beach neighborhood. The defense was that Zamora had been intoxicated by years of watching television violence. Television station WPBT (PBS) televised 27 of the 38 hours of the trial. WPBT reports that, at least on one night, the trial received higher Nielsen ratings than did Johnny Carson.

Paul Baker, the presiding judge, submitted a report to the state supreme court following the trial (even though evaluation reports were not required until the end of the pilot program). Judge Baker pointed out the worldwide coverage of the Zamora trial and volunteered that "the pilot experiment must be viewed as a success" because of the cooperation of media personnel.[122]

The Florida Supreme Court voted to terminate the pilot program in a four-to-three decision on May 11, 1978.[123] Although some media representatives were disturbed by the decision,[124] it does not represent a rejection of cameras in Florida courtrooms; the court merely terminated the pilot program for evaluation as scheduled. (The three dissenting justices called for an extension of the pilot

program until a recommendation for a permanent opinion could be presented.)

Illinois

A petition by the Illinois News Broadcasters Association to allow television and radio broadcasts from the courtroom was denied by the Illinois Supreme Court in May, 1978.[125] The petition, filed in April, 1978, asked the court to relax Rule 24 of the Supreme Court Rules, which prohibits photographing in and broadcasting from the courtroom. The petition was not concerned with the use of still cameras.

Indiana

At least three Indiana judges were allowing cameras in their courtrooms until the chief justice of the state supreme court pointed out in December, 1977, that disciplinary actions could be taken for violations of the state's Canon 3A(7). Judge Michael T. Dugan allowed live radio and television coverage of the jury's verdict in the trial of Anthony Kiritsis, and Judge John B. Wilson permitted live radio and television coverage of portions of the robbery and murder trial of Howard Willard. Kiritsis had held an Indianapolis loan officer hostage with a shotgun wired to his neck. The incident was covered live on local television news and received national media attention. Willard was on trial for his part in the murder and robbery of an Indianapolis millionairess. The trial of Roger Drollinger for the Valentine's Day murder of five brothers was also being televised in late November and early December of 1977 before the memorandum was issued.[126]

The Michiana Chapter of the Society of Professional Journalists, Sigma Delta Chi, is corresponding with Chief Justice Richard Givan of the Indiana Supreme Court concerning allowing cameras in Indiana courts.[127]

Kansas

Although there has been no formal effort to alter the prohibition on cameras in the courtroom in Kansas, Martin Umansky, general manager of KAKE Radio-TV, Wichita, is directing an educational campaign on the subject. Umansky has been holding seminars for

judges, broadcasters, reporters and attorneys to present tapes and written material on experiences in other states. Any changes in the present rule would have to come from the state supreme court and there has been no formal contact with the court concerning the use of cameras in the courtroom.[128]

Kentucky

Cameras were allowed in courts in Jefferson Circuit in Louisville for a brief time until the chief justice of the supreme court ordered the practice discontinued as of January 1, 1978. Cameras are not now allowed in Kentucky courts.

Thirteen of the sixteen judges of the Jefferson Circuit signed a resolution on August 23, 1977, urging recording and filming of court sessions be allowed except if media coverage were to become disruptive or if the trial involved children or matters of domestic relations. In May, 1978, a demonstration was presented to the Judicial Conference of Kentucky, showing various types of film and camera equipment in use. But in December the full court voted to ban all cameras from the state's courtrooms until it can evaluate the experience of other states.[129]

Michigan

The Board of Commissioners of the State Bar of Michigan has established a special committee to review the issue of allowing broadcasts of courtroom trials and look at changes made in other states.[130]

Missouri

Missouri is currently following Canon 3A(7), but the possibility of changing the canon is being discussed by both the state supreme court and subcommittees of the state bar. In June, 1978, the state judicial conference discussed the topic and several committees of the state bar met to discuss cameras in the courtroom.

Some attorneys are expressing opposition, but the consensus appears to be that more study is needed.[131]

Nebraska

Moves to change the Nebraska prohibition on cameras in the courtroom have failed. A resolution was introduced at a meeting of the state district judges' association to recommend to the state supreme court that cameras be allowed in the courtroom at the judge's discretion but lost, 15-21. A similar resolution introduced in the Nebraska Unicameral Legislature needed 25 votes to be moved from the judiciary committee but received only 15. The Nebraska State Bar Association has consistently opposed resolutions to change Nebraska Canon 3A(7).[132]

The resolution that lost before the judges association recommended that cameras immediately be allowed to cover non-jury proceedings with the consent of the judge and that a one-year trial period be instituted for jury trials.[133]

A Nebraska district judge, Rudolph Tesar, said that "a handful of senators" told him they did not vote for the resolution in the legislature because it would have been an invasion of the judicial powers.[134]

North Carolina

The North Carolina Press Association petitioned the state supreme court in 1961 and again in 1969 to drop its prohibition on courtroom photography without success. There is no current effort in North Carolina to change that rule.[135] The News Media-Administration of Justice Council of North Carolina, a bench-bar-press organization, anticipates no change, noting that the chief justice of the state supreme court has gone on record as opposing cameras in the courtroom.[136]

Ohio

The Ohio Supreme Court is considering the recommendations of a committee appointed by the court to study the possibility of amending Ohio Canon 3A(7) to allow the use of cameras in Ohio courtrooms.[137] Both the Ohio Newspaper Association and the Ohio Association of Broadcasters have submitted proposed rules for consideration by the court, in addition to the recommendations presented by the court-appointed advisory committee.

An experiment was conducted in April, 1978, in the century-old Summit County Courthouse in Akron, remodeled with a $93,000 grant from the federal Law Enforcement Assistance Administration to build three television cameras into the ceiling. One behind the judge is fixed on the witness stand, the other two are on either side of the room and can be maneuvered from a control room outside the courtroom.[138]

The technician in the control room can select one of three pictures to feed the videotape recorder. Seven microphones scattered about the courtroom are also manipulated by the control room and can be turned off by remote control when not in use. The system was designed to make a record of trials for use by appeals courts but has also been used to allow an unruly defendant to view the trial from the control room out of view of the jury.

The defendant in the test trial was charged with the murder and rape of a 9-year-old girl. The judge had agreed to allow the defendant to be hypnotized during the examination, creating high media interest in the trial. Three television networks, five television stations, three radio stations, and six newspaper photographers used the court's audio-visual system to cover the trial. Because the equipment was outside the courtroom, except for cameras and microphones, the large press corps caused no disruption and the judge commended the media for their conduct in the case.[139]

Consideration of the committee recommendation was halted by the death of the chief justice in August, 1978, and has not been reopened.

Oregon

A subcommittee of the Oregon bench-bar-press committee has been studying possible guidelines for the admission of photographic and broadcasting equipment to the courtroom for one year. The subcommittee undertook the study in July, 1977, and completed a preliminary draft in November. Early in 1978 the subcommittee circulated the proposed guidelines to concerned organizations, including the Oregon Judicial Conference, the Oregon bar, the Oregon Association of Broadcasters and the Oregon Newspaper Publishers Association. The guidelines had not been presented to the state supreme court by the end of 1978.[140]

Pennsylvania

A task force to create proposed standards for an experiment to allow camera coverge of court proceedings has adopted a resolution urging the state bar's board of governors to ask the supreme court to approve a pilot program. The task force, made up of lawyers, journalists, broadcasters, educators and the public, presented proposed standards to a conference of the Pennsylvania bar in September, 1978, but to this writing have not been acted upon.[141]

Rhode Island

Rhode Island has possibly the most stringent court rules of any state regarding use of media equipment in the courtroom. The rule governing the Rhode Island superior court states that "the taking of photographs or sketching in the courtroom during the progress of judicial proceedings or radio or television broadcasting of judicial proceedings from the courtroom shall not be permitted by the court." The basic rule was adopted June 4, 1972, and the prohibition against sketching was added January 17, 1975.[142] A similar rule prohibits the taking of photographs or sketching in the courtroom and the broadcasting or televising of court proceedings in the state supreme court.

A hint of an atmosphere for change is noted in a letter from the presiding justice of the superior court (circuit court) to the news director of a Providence television station. Steve Caminis, news director of WJAR-TV, Providence, forwarded materials relating to the Florida experiment to Justice Joseph Weisberger. Weisberger acknowledged the material and said he found it very interesting but that he had no power to change the prohibition, which must come from the supreme court. Weisberger offered to present the issue to the judicial planning council to see if the justices of the state supreme court would be willing to consider a change.[143] Information from the Rhode Island Bar Association indicates that no change is anticipated.[144]

Utah

The Utah Supreme Court has not dropped its prohibition on the use of cameras in the courtroom, but at least two Utah judges are

experimenting with the idea. Judge Paul Grant of a district court in Salt Lake City allowed a television camera pool to film his decision on a pretrial hearing in a murder case and Judge Venoy Christoffersen in Logan allowed a news photographer to roam freely around the courtroom taking pictures during a trial.[145]

The state supreme court did not sanction these two violations but is studying the incidents while reviewing a petition before the court to change the prohibition.[146]

Virginia

There is no clear indication that a change in Virginia's version of Canon 3A(7) is forthcoming. However, the Special Committee on Bar-News Media Relations of the Virginia State Bar is considering the issue and has begun corresponding with the public information committee of the state judicial council about an experimental program. The committee is interested in a pilot program in one trial court for a specific period, but had not presented it to the Supreme Court by the end of 1978.[147]

States With no Action to Allow Cameras in the Courtroom

Arkansas is following the state's version of ABA Canon 3A(7) and there is no indication of changes in the near future. A photographer's camera was seized in the hallway of an Arkansas courthouse in May, 1978.[148]

Vermont media are not trying to change the state's prohibition of cameras in the courtroom, being more concerned with an effort to establish an open meeting of law in the state. Photographs of any juvenile taken into custody are prohibited unless the judge consents or the case is transferred to a criminal court.[149]

Other States

The following states are currently following their versions of Canon 3A(7) and give no indication of change: *Delaware, Hawaii* and *South Carolina*.[150] *Maine* and *Wyoming* are following their versions of Federal Court Rule 53 which prohibits cameras in the courthouse area. There are no signs of impending change.[151]

Maryland is following a version of the old ABA Canon 35, because the Code of Judicial Ethics has not been replaced with a Code of Judicial Conduct. There is no indication of any attempt to change this rule.[152]

There is nothing in the court rules of ***Mississippi*** or in the state code that prohibits cameras from that state's courtrooms,[154] but they are not allowed in the state supreme court. The lower courts hold discretion in the matter, according to the supreme court clerk and the administrator of the supreme court. At any rate, judges are not now allowing cameras in Mississippi courts.[154]

No information was received from ***Arizona, Connecticut, Iowa, Massachusetts*** or ***South Dakota*** but the Reporters Committee-RTNDA report indicates that all of these states follow the wording of ABA Canon 3A(7).

Conclusions

With change coming rapidly in recent years the use of cameras and electronic equipment in most state courtrooms should be commonplace within a few years. Fred Graham called it a revolution, a reasonable use of the term, given the suddeness and spontaneity with which the changes are developing. It is a clear break with traditional patterns of change. Usually such a change would be initiated by the federal court system or the American Bar Association. In this case, the changes have developed from below and without clear leadership.

Change in the ABA's position may be on the horizon and may reflect changes that have already occurred in many states. But Chief Justice Warren Burger of the U.S. Supreme Court is standing firm,[155] and it is unlikely that federal court policy could change over his objections.

Because the changes are developing in the individual states without uniform guidance, the emerging policies differ. Some states are requiring camera pools while others are not; some require consent of all involved while others do not. Some homogeneity is seen where states pattern policies after those of other states but without central leadership from either the ABA or by the federal court system, uniformity appears to be a long way off.

There is no question that camera technology has improved since the Billie Sol Estes trial in 1964. However, many questions concern-

ing the psychological impact of cameras in the courtroom remain unanswered. Unless the U.S. Supreme Court, which has not addressed the issue since the Estes decision, takes up the issue again and decides against cameras, the changes in state courts should continue to move—sporadically and idiosyncratically but inexorably—toward allowing cameras in most state courtrooms.

NOTES

Asterisked items may be found in the report of the Reporter's Committee—RTNDA.

1. *In re* Hearings Concerning Canon 35 of the Canons of Judicial Ethics, 296 P.2d. 465 (1956).
2. Both Texas and Oklahoma allowed cameras in state courtrooms prior to the 1965 U.S. Supreme Court decision in *Estes v. Texas*. Texas had not adopted Canon 35 and Oklahoma, like Colorado prior to 1956, had adopted Canon 35 but had not enforced it.
3. Fred Graham, speech before the Conference of Chief Justices, New Orleans, Feb. 10, 1978.
4. Oscar Hallam, "Some Objective Lessons on Publicity in Criminal Trials," *Minnesota Law Review*, 24 (1941), p. 454.
5. *Loc. cit.*
6. Sheldon Portman, "The Defense of Fair Trial from Sheppard to NPA: Benign Neglect to Affirmative Action and Beyond," *Stanford Law Review*, 29, No. 3 (February 1977), p. 396.
7. Hallam, *op. cit.*, p. 454
8. Albert E. Blashfield, "The Case of the Controversial Canon," *American Bar Association Journal*, 48, No. 5 (May 1962), p. 430.
9. Hallam, p. 463.
10. Blashfield, *op. cit.*, p. 430.
11. Abner V. McCall, "Courtroom Television," *Texas Bar Journal*, 10, No. 2 (February 1956), p. 73.
12. *Ibid.*, p. 106.
13. Blashfield, p. 432.
14. M. Ray Doubles, "A Camera in the Courtroom," *Washington and Lee Law Review*, 22, No. 1 (Winter 1965), p. 3.
15. Allan R. Derr, "Cameras in the Courtroom," *Quill*, 47, No. 7 (July 1959), p. 9.
16. Hugh B. Terry, "Electronic Journalism In the Colorado Courts," *Journalism Quarterly*, 34; 341-2 (Summer 1957).
17. Robert C. Underwood, "Observations Regarding Canon 35," *Illinois Bar Journal*, 55, No. 3 (November 1966), p. 196.
18. *Ibid.*, pp. 196-7.
19. Derr, p. 18.
20. "Trial Pictures Allowed on Written Consent," *Editor & Publisher*, 87, No. 11 (March 6, 1954), p. 10.
21. "All Restrictions Off for Murder Trial Pix," *Editor & Publisher*, 88, No. 28 (July 2, 1955), p. 40.
22. "Georgia Judge Allows Pix in Court," *Editor & Publisher*, 88, No. 31 (July 23, 1955), p. 12.
23. Freedom of Information Committee, "The News Camera in the Courtroom," *Quill*, 47, No. 1 (February 1959), pp. 20-22.
24. Estes v. Texas, 381 U.S. 532, 85 S. Ct. 1628, 14 L.Ed.2d. 543 (1965).

25. Ben F. McDonald, "TV and News Coverage of the Courtroom," *Texas Bar Journal*, 30, No. 3 (March 1967), p. 222.

26. Estes v. Texas, 381 U.S. 532, 536.

27. *Ibid.*, 545.

28. *Ibid.*, 584.

29. *Ibid.*, 552.

30. Deborah van Peski, staff assistant, ABA Legal Advisory Committee on Fair Trial and Free Press, to author, May 30, 1978.

31. ABA Adjunct Committee on Fair Trial and Free Press, "Standards Relating to Fair Trial and Free Press," May 22, 1978 Draft, p. 60.

32. Van Peski stated that if the House of Delegates adopts the standards including the statement that cameras are not *per se* inconsistent with the right to a fair trial, Canon 3A(7) will have to be changed. Letter, May 30, 1978.

33. *In re* Hearings, *supra*, n.1.

34. Colorado, *Code of Judicial Conduct*, Canon 3A(8).*

35. *Ibid.*, Canon 3A(9).

36. *Ibid.*, Canon 3A(10)(a).

37. *Ibid.*, Canon 3A(10)(b).

38. Edward E. Pringle, Chief Justice, Colorado Supreme Court, to Dick Leonard, ABC News, February 25, 1977.*

39. *Loc. cit.*

40. In Hearings Concerning Canon 35, *op. cit.*

41. Colorado Broadcasters Association, *Colorado Court Coverage Code for Radio and Television*, Revised and adopted, 1973, Rule 3.*

42. New York, *New York Statutes Consolidated*, Section 33.3(a)(7).*

43. Robert H. Hevenor, executive director, New York Press Association, to author, June 20, 1978.

44. Allen M. Petrillo, assistant director of public relations, New York State Bar Association, to author, June 19, 1978.

45. Washington, Supreme Court, In the matter of the adoption of amendments to the Code of Judicial Conduct, Canon 3(A)(7), July 23, 1976.*

46. Washington, *Code of Judicial Conduct*, 3(A)(7).*

47. Washington Bench-Bar-Press Committee, report of subcommittee on Canon 35, April 5, 1975.*

48. *Ibid.*

49. *Ibid.*

50. Charles A. Burgeson, to Judge Stanley C. Soderland, Feb. 11, 1975; Bryan S. Johnson, KOMO Radio, report on trial experiment, undated; George Diedrich, producer-director, Closed Circuit Television Department, University of Washington, Seattle, to Paul Conrad, Jan. 24, 1975; James A. Murphy, president, Washington State Association of Broadcasters, to Paul Conrad, March 20, 1975; Charles H. Todd, attorney-at-law, to Paul Conrad, Dec. 17, 1974; George H. Bovington, defense attorney, to Judge Stanley C. Soderland; Howard P. Pruzan, attorney-at-law, to Judge Stanley C. Soderland, Jan. 3, 1975; Lawrence L. Longfelder, attorney-at-law, to Judge Stanley C. Soderland, Dec. 6, 1974; and Gene Gisley, The Bremerton (Wash.) *Sun*, to Paul Conrad, Dec. 16, 1974.*(all)

51. Memorandum to cameras in the courtroom test subcommittee, Feb. 20, 1975.*

52. Letter to Paul R. Conrad, Washington Allied Daily Newspapers, Jan. 24, 1975.*

53. Washington, Supreme Court, In the matter of the adoption of amendments to the Code of Judicial Conduct, Canon 3(A)(7), court order, July 23, 1976.*

54. *Ibid.*

55. Paul Conrad, executive director, Allied Daily Newspapers, secretary, Washington Bench-Bar-Press Committee, telephone conversation with author, July 5, 1978.

56. *Ibid.*

57. Associated Press Managing Editors Association, *Cameras in the Courtroom: How to Get 'em There*, undated, p.3.*

58. Rex Thomas, "Photos In the Courtroom: State Supreme Court OKs If Judge Consents," *Alabama Journal*, Dec. 18, 1975.

59. Alabama, *Canons of Judicial Ethics*, 3A(7).*

60. Alabama, Supreme Court, *In re* plan pertaining to Canon 3A(7A) and (7B) for Fifteenth Judicial Circuit of Alabama, court order, Apr. 12, 1977.*

61. Alabama, Supreme Court, *In re* plan pertaining to Canon 3A(7B) for the Supreme Court of Alabama, court order, Oct. 14, 1976.*

62. Alabama, Supreme Court order, April 12, 1977, Section 5.

63. *Ibid.*, Section 9.

64. Marion Huttenstine, University of Alabama School of Journalism, to author, June 15, 1978.

65. *Ibid.*

66. *Ibid.*

67. Georgia, Supreme Court, *In re* adoption of Canon 3A(8), court order, May 12, 1977.*

68. Georgia, Supreme Court, *In re* plan for camera coverage of Supreme Court of Georgia, court order, September 1, 1977.*

69. Georgia, Supreme Court, *In re* plan for camera coverage of Chattahoochee Judicial Circuit, court order, Oct. 20, 1977, and *In re* plan for camera coverage of Dougherty Judicial Circuit, court order, Oct. 7, 1977.*

70. Tom Crawford, "Cameras in Court are Here to Stay, Chief Justice Says," *Atlanta Journal*, June 21, 1978, p. 2C.

71. *Ibid.*

72. Nevada, *Supreme Court Rules*, Rule 240.*

73. Nevada, *Nevada Revised Statutes*, Section 1.220.*

74. Nevada, *Code of Judicial Conduct*, Canon 3A(7).*

75. KLAS-TV, Las Vegas, Announce Release of Criminal Trial Broadcast, September, 1976.*

76. Joe Jackson, secretary manager, Nevada State Press Association, to author, June 18, 1978.

77. New Hampshire, Supreme Court, *In re*: camera in court rule change, court order, Oct. 12, 1977.*

78. New Hampshire, Supreme Court, *In re*: camera in court rule change, court order, Dec. 6, 1977.*

79. *Ibid.*

80. Deborah de Pester, "Prison Without Parole Argued," Concord *Monitor*, Jan. 4, 1978, p. 1.

81. This information is from the Reporters Committee RTNDA report. No other information was available from Minnesota.

82. Minnesota, Supreme Court, Order authorizing use of cameras at oral arguments, Jan. 27, 1978.*

83. Minnesota, Supreme Court, Order adopting rules governing experimental coverage or oral arguments in Minnesota Supreme Court by Television, Radio, and Photography, Jan. 27, 1978.*

84. Judith L. Rehak, Minnesota Supreme Court Administrator, memorandum to Minnesota State Bar Association Joint Bar, Press, Radio and Television Committee, Jan. 27, 1978.*

85. Mrs. John M. Holahan, public information officer, Supreme Court of Louisiana, to author, June 30, 1978.

86. Louisiana, Supreme Court, order authorizing pilot project on camera and electronic coverage of court proceedings, Feb. 23, 1978.

87. Holahan Letter. Mrs. Holahan reported March 9, 1979, that while portions of some trials have been recorded, no full trials have been broadcast or photographed. She blames the consent requirement.

88. Montana, Supreme Court order, April 1, 1978.

89. Sam Gilluly, secretary manager, Montana Press Association, to author, June 20, 1978.

90. Wisconsin, Supreme Court, *In re* Code of Judicial Ethics, court order, Dec. 23, 1977.*

91. Wisconsin, *Wisconsin Statutes Annotated*, Section 256, Appendix, Rule 14.*

92. Wisconsin, Supreme Court, *In re* Code of Judicial Ethics, court order, March 16, 1978.

93. Larry M. Tobin, legislative coordinator and assistant manager, Wisconsin Newspaper Association, to author, July 7, 1978.

94. Bruce F. Beilfuss, chief justice, Wisconsin Supreme Court, to subordinate judges, Apr. 21, 1978.

95. Doug Breisch, "Media on Trial: It works in Western Wisconsin," RTNDA *Communicator*, June, 1978.

96. "State High Court Allows TV, Photos in Session," Chattanooga *News-Free Press*, May 25, 1978.

97. "Supreme Court Amends Code of Judicial Conduct," *Texas Bar Journal*, 40, No. 2 (February, 1977), p. 131.*

98. Texas Committee on Judicial Ethics, Opinion 19.*

99. New Mexico, *New Mexico Statutes Annotated*, Section 36-22-28 (trial courts); Section 36-23-29 (magistrate courts).

100. "Cameras in courtroom may get ok," *Shop Talk*, New Mexico Press Association, June 1978.

101. Mary Lee Quinalty, New Mexico Press Association, to author, July 6, 1978.

102. "Cameras in the Courtroom," Anchorage *News*, Sept. 6, 1978.

103. Paul Conrad, Washington Allied Daily Newspapers, telephone conversation with author, July 5, 1978.

104. New Jersey, Supreme Court Committee on Relations with the Media, Report of the New Jersey Supreme Court's Committee on Relations with the Media, March 15, 1978.

105. "W. Va. Court Approves Camera Guidelines," *Editor & Publisher*, Dec. 16, 1978, p. 13.

106. Paul Conrad, *op. cit.*

107. Conrad, *ibid.*; Cross to author, May 26, 1978.

108. Jack McDonald, attorney-at-law, Bismarck, North Dakota, to author, June 27, 1978. McDonald, telephone, March, 1979.

109. Ben Blackstock, Oklahoma Press Association, to author, July 5, 1978.

110. W. E. Boswell, Jr., general counsel, Oklahoma Bar Association, to author, June 19, 1978. Boswell to author, telephone, March, 1979.

111. California, Bench/Bar/Media Committee, Report of the Executive Committee Subcommittee on guidelines for broadcasting and photography in California courtrooms, Apr. 21, 1977.*

112. Carol Bentell, "Lawmakers set second look at television in trial courts," Los Angeles *Daily Journal*, June 13, 1978.

113. Bill Stemer, government affairs administrative assistant, California Newspaper Publishers Association, Inc., to author, June 23, 1978.

114. Paulette S. Eaneman, State Bar of California Department of Communications and Public Affairs, to author, on June 21, 1978.

115. Florida, Supreme Court, *In re*: Petition of Post-Newsweek Station, Florida, Inc., for change in Code of Judicial Conduct, Interlocutory order, May 21, 1975.*

116. *In re*: Petition of Post-Newsweek Station, Florida, Inc., for change in Code of Judicial Conduct, 327 S.2d. 1, (Fla.) (1975).*

117. *In re*: Petition of Post Newsweek Station 327 S.2d. 1, 2.

118. Florida, Supreme Court, *In re*: Petition of Post-Newsweek Stations, Florida, Inc., for change in Code of Judicial Conduct, court order, Apr. 12, 1976.

119. See *In re*: Petition of Post Newsweek Station, 327, S. 2d. 1, 2 and subsequent court orders by the same heading, September 17, 1977 and Dec. 21, 1977.

120. Florida, Supreme Court, *In re*: Petition of Post-Newsweek Station, Florida, Inc., for change in Code of Judicial Conduct, supplemental interlocutory decision, Apr. 7, 1977.*

121. Duane Silverstein, "TV Comes to Court," January 1978 (Edited version published in State Court Journal, Spring 1978.)

122. Paul Baker, Judge, Eleventh Judicial Circuit of Florida, Report to the Supreme Court of Florida: Re: Conduct of Audio-Visual Trial Coverage. Nov. 30, 1977.

123. Florida, Supreme Court, *In re*: Petition of Post-Newsweek Stations, Florida, Inc., for change in Code of Judicial Conduct, court order, May 11, 1978.*

124. R. E. Ivory, Executive Director, Florida Press Association, to author, June 19, 1978.

125. David N. Anderson, director of public affairs, Illinois Bar Center, to author, June 19, 1978.

126. Fred Heckman, Fairbanks Broadcasting Company, Inc., descriptive statement in Reporters Committee-RTNDA report.

127. Richard Cardwell, general counsel, Hoosier State Press Association, Inc., to author, May 26, 1978.

128. Roberta Applegate, Kansas State University Department of Journalism and Mass Communication, to author, June 8, 1978.

129. C. Thomas Hardin, Louisville *Courier-Journal* and *Times*, telephone conversation with author, June 6, 1978; "Camera Ban Upheld by Ky.'s Top Court," *Editor & Publisher*, Dec. 23, 1978.

130. "Courtroom TV to be studied," *Michigan State Bar Journal*, March, 1978.

131. E. A. Richter, director of information, The Missouri Bar, to author, June 20, 1978.

132. Sharon R. Stephan, director of public relations, Nebraska State Bar Association, to author, June 22, 1978.

133. George Hendrix, "Judges May OK Cameras in Courtrooms at Meeting Here," Scottsbluff *Star-Herald*, June 2, 1978.

134. Quoted by Douglas Anderson, assistant professor, University of Nebraska Department of Communicaiton, to author, June 2, 1978.

135. William C. Lassiter, attorney-at-law, Raleigh, North Carolina, memorandum to author, June 24, 1978.

136. William F. Chamberlin, assistant professor, University of North Carolina School of Journalism, letter to author, June 12, 1978.

137. Gary N. Hunt, director of media relations, Ohio State Bar Association, to author, June 21, 1978.

138. David A. Lieberth, news director, WHLO, Akron, "An Ohio Experiment: Television Coverage of the Timothy Papp Trial," unpublished, April 14, 1978.

139. *Ibid.*

140. Don Sterling, chairman, Freedom of Information Committee, Oregon Newspaper Publishers Association, memorandum to members of ONPA, Jan. 4, 1978*; and Roger Williams, executive director, Oregon Newspaper Publishers Association, to author, June 20, 1978.

141. John DeMott, professor, Temple University Department of Journalism, to author, June 10, 1978.

142. Rhode Island, *Superior Court Rules*, Rules of Criminal Procedure, Superior Court, Rule 53.

143. Joseph R. Weisberger, presiding justice, Superior Court of Rhode Island, letter to Steve J. Caminis, news director, WJAR-TV, Providence, Rhode Island, Sept. 2, 1977.

144. Edward P. Smith, Rhode Island Bar Association, to author, June 21, 1978.

145. Jerilyn McIntyre, associate professor, University of Utah Department of Communication, to author, June 6, 1978.

146. *Ibid.*

147. James W. Woodson, director of public information, Virginia State Bar, to author, June 27, 1978.

148. Joel Gambill, Arkansas State University Division of Journalism and Printing, to author, June 6, 1978.

149. Alex Nagy, Saint Michael's College Department of Journalism, to author, June 1, 1978.

150. Ray Hamby, Maryland-Delaware-D.C. Press Association, to author, June 16, 1978; Francis A. Marzen, Hawaii Newspaper Association, to author, June 19, 1978; Reid H. Montgomery, South Carolina Press Association, to author, June 19, 1978.

151. Howard A. Keyo, Maine Press Association, to author, June 28, 1978; Nancy R. Shelton, Wyoming Press Association, to author, June 19, 1978.

152. Hamby note (*supra*), and William H. Adkins, court administrator, Maryland Supreme Court, to author, June 19, 1978.

153. Barbara Neil, assistant librarian, Mississippi State Library, letter to Joel Hamme, Pierson, Ball and Dowd, Washington, D.C. (RTNDA's research counsel), Feb. 7, 1978.

154. Mississippi State Bar, to author, June 22, 1978.

155. Mr. Justice Burger even walked out of a session at the ABA meeting in February because it was being televised.